

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

John B. Stokes, #258800,) Civil Action No.: 8:07-3751-RBH-BHH
)
 Petitioner,)
)
 vs.) **REPORT AND RECOMMENDATION**
) **OF MAGISTRATE JUDGE**
Warden, Broad River Correctional)
Institution,)
)
 Respondent.

The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2254. On January 22, 2008, the respondent filed a motion for summary judgment. On January 23, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the petitioner elected not to respond to the motion.

As the petitioner is proceeding *pro se*, the court filed a second order on March 3, 2008, giving the petitioner through March 26, 2008, to file his response to the motion for summary judgment. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. On March 12, 2008, petitioner filed a Reply, ostensibly requesting latitude in the time to respond. In response to that Reply, an Order was issued on March 13, 2008, giving the petitioner an additional thirty days to respond to the summary judgment motion. Despite the additional time given, the petitioner still has made no response.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in

Chandler Leasing Corp. v. Lopez, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks
United States Magistrate Judge

April 17, 2008

Greenville, South Carolina Carolina